Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Text

CONFIDENTIAL

PAGE 01 STATE 219616

43
ORIGIN L-03

INFO OCT-01 CCO-00 RSC-01 SS-20 SSO-00 ISO-00 SPC-03

AID-20 EB-11 NSC-10 CIEP-02 TRSE-00 STR-08 OMB-01

CEA-02 NEA-10 NSCE-00 PM-07 CIAE-00 INR-10 NSAE-00

DODE-00 COME-00 INRE-00 /109 R

DRAFTED BY L:SMSCHWEBEL:CDJ
APPROVED BY NEA:RDAVIES
L/EB:DMUIR
L:MFELDMAN
EB:WARMSTRONG
NEA/ARP:BWRAMPELMEIR
S/S: MR. MILLER
---------- 058444
O 071917Z NOV 73 ZFF4
FM SECSTATE WASHDC
TO USINT CAIRO NIACT IMMEDIATE
INFO USDEL RIYADH IMMEDIATE

C O N F I D E N T I A L STATE 219616

TOSEC 176

E.O. 11652: GDS
TAGS: ENRG, SA
SUBJ: VIOLATION OF USG TREATY RIGHTS BY SAUDI OIL EMBARGO

1. ALTHOUGH LEGAL ARGUMENTATION MAY NOT WEIGH HEAVILY IN DISCUSSIONS WITH SAUDIS ON OIL EMBARGO, YOU MAY WISH TO BEAR IN MIND THAT. IN VIEW OF USG, SAUDI OIL EMBARGO AGAINST U.S. VIOLATES PROVISIONAL AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SAUDI ARABIA IN REGARD TO DIPLOMATIC AND CONSULAR REPRESENTATION, JURIDICAL PROTECTION, COMMERCE AND NAVIGATION OF NOVEMBER 7, 1933.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 219616

2. THAT AGREEMENT PROVIDES:

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

"ARTICLE II. SUBJECTS OF HIS MAJESTY THE KING OF THE
KINGDOM OF SAUDI ARABIA IN THE UNITED STATES OF AMERICA,
ITS TERRITORIES AND POSSESSIONS, AND NATIONALS OF THE
UNITED STATES OF AMERICA, ITS TERRIORIES AND POSSESSIONS,
IN THE KINGDOM OF SAUDI ARABIA SHALL BE RECEIVED AND
TREATED IN ACCORDANCE WITH THE REQUIREMENTS AND
PRACTICES OF GENERALLY RECOGNIZED INTERNATIONAL LAW. IN
RESPECT OF THEIR PERSONS, POSSESSIONS AND RIGHTS, THEY
SHALL ENJOY THE FULLEST PROTECTION OF THE LAWS AND
AUTHORITIES OF THE COUNTRY, AND THEY SHALL NOT BE TREATED

IN REGARD TO THEIR PERSONS, PROPERTY, RIGHTS AND INTER-
ESTS, IN ANY MANNER LESS FAVORABLE THAN THE NATIONALS
OF ANY OTHER FOREIGN COUNTRY."

ARTICLE III. IN RESPECT OF IMPORT, EXPORT AND OTHER
DUTIES AND CHARGES AFFECTING COMMERCE AND NAVIGATION,
AS WELL AS IN RESPECT OF TRANSIT, WAREHOUSING AND OTHER
FACILITIES, THE UNITED STATES OF AMERICA, ITS TERRITORIES
AND POSSESSIONS, WILL ACCORD TO THE KINGDOM OF SAUDI
ARABIA, AND THE KINGDOM OF SAUDI ARABIA WILL ACCORD TO
THE UNITED STATES OF AMERICA, ITS TERRITORIES AND
POSSESSIONS, UNCONDITIONAL MOST-FAVORED NATION TREATMENT.
EVERY CONCESSION WITH RESPECT TO ANY DUTY, CHARGE OR
REGULATION AFFECTING COMMERCE OR NAVIGATION NOW ACCORDED
OR THAT MAY HEREAFTER BE ACCORDED BY THE UNITED STATES
OF AMERICA, ITS TERRITORIES AND POSSESSIONS, OR BY THE
KINGDOM OF SAUDI ARABIA TO ANY FOREIGN COUNTRY WILL
BECOME IMMEDIATELY APPLICABLE WITHOUT REQUEST AND WITHOUT
COMPENSATION TO THE COMMERCE AND NAVIGATION OF THE KINGDOM
OF SAUDI ARABIA AND OF THE UNITED STATES OF AMERICA, ITS
TERRITORIES AND POSSESSIONS, RESPECTIVELY."

3. IN OUR VIEW, SAG EMBARGO VIOLATES TREATY RIGHTS OF
USG BECAUSE THE EMBARGO IS A REGULATION AFFECTING COMMERCE,
AND BECAUSE ITS NON-APPLICATION TO STATES NOT EMBARGOED
IS A CONCESSION WHICH, BY THE TERMS OF THE TREATY,
SHALL BECOME IMMEDIATELY APPLICABLE TO THE U.S. HENCE
THE DISCRIMINATORY APPLICATION OF THE EMBARGO AGAINST
CONFIDENTIAL

THE U.S. VIOLATES THE UNCONDITIONAL MOST-FAVORED NATION
RIGHTS WHICH ARTICLE III ASSURES TO THE U.S., BY REASON
OF THE FAVORED POSITION IN WHICH STATES NOT EMBARGOED
ARE PLACED.

4. THIS ARGUMENT IS SUPPORTED BY CLEAR INTENT OF PARTIES
THAT THE AGREEMENT SHALL AFFORD UNCONDITIONAL MFN TREAT-
MENT. THUS, SAG NOTE OF MAY 4, 1931, STATED THAT SAG IS

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

PREPARED TO ENTER INTO EXCHANGE OF NOTES PROVIDING "FOR RECIPROCAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT".

5. FURTHERMORE, THERE IS SERIOUS QUESTION WHETHER REQUIRING U.S. NATIONALS IN SAUDI ARABIA TO APPLY EMBARGO, IN DEROGATION OF THEIR CONCESSION RIGHTS TO TRANSPORT, DEAL WITH AND EXPORT OIL, WITHOUT COMPENSATION FOR RESULTANT LOSSES, IS IN ACCORDANCE WITH THE REQUIREMENTS OF GENERALLY RECOGNIZED INTERNATIONAL LAW.

6. THIS PROVISIONAL AGREEMENT WAS NEVER COMPLEMENTED BY A DEFINITIVE TREATY OF COMMERCE AND NAVIGATION. YET IT IS TREATED AS IN FORCE BETWEEN THE PARTIES, AND MFN RIGHTS ARE ACCORDED PURSUANT TO IT. HOWEVER, THIS AGREEMENT IS SUBJECT TO TERMINATION ON 30 DAYS NOTICE. ACCORDINGLY, IF YOU WERE TO REFER TO IT IN ANY DISCUSSION WITH SAG OF EMBARGO, THAT MIGHT PROVOKE SAG TO TERMINATE IT. THAT WOULD DEPRIVE US OF USEFULNESS OF AGREEMENT IN OTHER CONNECTIONS. HOWEVER, IN OUR VIEW, THESE CONSIDERATIONS ARE NOT SO SUBSTANTIAL AS TO SUGGEST THAT THE AGREEMENT SHOULD NOT BE REFERRED TO.

7. OTHER, MUCH MORE DEBATABLE, ARGUMENTS AS TO ILLEGALITY OF EMBARGO ARE SET OUT IN L MEMORANDUM PASSED SISCO. RUSH

CONFIDENTIAL

NNN

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MFN, PETROLEUM PRODUCTION, TRADE AGREEMENTS, FOREIGN POLICY POSITION, EMBARGOES, DIPLOMATIC DISCUSSIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 NOV 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE219616
Document Source: CORE
Document Unique ID: 00
Drafter: SMSCHWEBEL:CDJ
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731149/aaaabjqu.tel
Line Count: 141
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 11 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <11-Dec-2001 by kelleyw0>; APPROVED <07-Jan-2002 by morefirh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: VIOLATION OF USG TREATY RIGHTS BY SAUDI OIL EMBARGO
TAGS: ENRG, SA, US
To: CAIRO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005